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SEP 2 8 2006

In re Application of   :

OFFICE OF PETITIONS

Junbiao Zhang, et al.   :

Application No. 10/518,997   :

ON PETITION

Filed: December 21, 2004   :

Attorney Docket No. PU020309   :

This is a decision on the petition, filed September 21, 2006, under 37 CFR 1.313(a) to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

37 CFR 1.313(a) states in part:

> "Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in 1.17(h) and a showing of good and sufficient reason why withdrawal of the application from issue is necessary.

While the petition includes the requisite petition fee, it does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. Petitioner merely states that the examiner has committed an error in denying his claim for priority. An appropriate avenue for relief is by way of a petition under 37 CFR 1.181 for review of the examiner's action in denying the claim for priority.
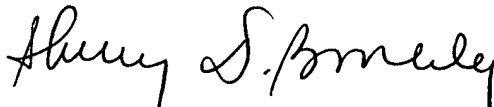
Further, 37 CFR 1.313(a) goes on to state:

> "A petition under this section is not required if a request for continued examination under 1.114 is filed prior to payment of the issue fee."

Therefore, the filing of a RCE under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have also been a proper available option to petitioner.

The application is being referred to the Technology Center 2611 to consider the present petition under the merits of 37 CFR 1.181.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions